



Joint Planning Commission Meeting Agenda Documentation

PREPARATION DATE: November 13, 2009 **SUBMITTING DEPARTMENT:** Town & County Planning
MEETING DATE: November 19, 2009 **DEPARTMENT DIRECTORS:** Tyler Sinclair & Jeff Daugherty
PRESENTERS: Tyler Sinclair & Jeff Daugherty

SUBJECT: Draft Comprehensive Plan Review

STATEMENT/PURPOSE

The purpose of this item is to continue joint review by the Town and County Planning Commissions of the draft Comprehensive Plan dated April 3, 2009.

BACKGROUND/ALTERNATIVES

The specific topics to be addressed at this meeting are as follows:

- Review of Staff's rewrite of Theme 1 – Practice Stewardship of Wildlife, Natural Resources, and Scenic Vistas based on the Planning Commissions' preliminary recommendations.

Public Comment on Agenda Items

Public comment received on Theme 1 since the October 8, 2009 staff report is attached. Staff has previously provided all other public comment on Theme 1. Please contact staff for additional copies.

Planning Commission Comments/Discussion Points

Lisa daCosta's comments regarding the Theme 1 rewrite are attached. Comments by other commissioners have been requested by Monday and will be distributed to all commissioners once they are received.

Staff Follow Up and Discussion Points

Below is a list of possible discussion points prepared by staff based upon discussion, recommendations, and public comment on not only the Theme 1 rewrite, but also Theme 2.

- Votes indicate to Staff that it is the Planning Commissions' intent to apply all current generally applicable wildlife habitat protections, current NRO wildlife and wildlife habitat protections (Environmental Analysis, more detailed habitat protection, etc.), and any new wildlife and wildlife habitat protections to all properties in Teton County. (Rec. 54) The boundary of the NRO will be

used in the PRD process in order to incentivize clustering of development outside of crucial habitat areas – i.e. the NRO. (Rec. 163)

- This is the intent of the Planning Commissions
- Other

- Staff believes that amending the title of Principle 1.2 to “Preserve and enhance water and air quality” (Rec. 78) has the potential to limit protection to waterways, wetlands, and riparian areas and represents a shift from the currently applied policy regarding protection of these resources. Staff is unclear if this was the Planning Commissions’ intent. Protection of waterways, wetlands, and riparian areas does more than protect water quality. It also provides habitat and natural flood protection. Especially in the case of wetlands the discussion of their function beyond that of water quality has been the focus of multiple policy discussions and is what differentiates County protection from Army Corp. protection. Limiting the scope of Principle 1.2 also potentially prohibits the protection of other natural resource in the future if they do not fit only into the habitat, water, air, or ag categories identified in this theme.
 - Leave recommended title of Principle 1.2 as “Preserve and enhance water and air quality”
 - Amend recommended title of Principle 1.2 to more broadly address natural resource protection
 - Other

- Staff believes that because the vast majority of roads in Teton County are private, expanding SRO protection to viewpoints from all roads (Rec. 84) represents a major change in policy. Staff is unclear if this was the Planning Commissions’ intent and is concerned that such an expansion may not be administratively or functionally feasible. The purpose of our current scenic regulations is to protect public, not private, views. The Scenic Resources Overlay is currently mapped to protect skylines and scenic foregrounds as viewed from State highways and select County roads. In the April draft Staff proposed to expand the protection to include skylines, foregrounds, and forested hillsides as viewed from all public (State, County, Town) roads and parks.
 - Leave recommendation as “all roads”
 - Limit scenic protection to public roads and parks
 - Limit scenic protection to State and select County roads (status quo)
 - Other

- Staff is concerned that neither the April draft nor the Planning Commissions recommended changes to 1.3.c provides clear policy direction regarding ponds and berms, which was the intent of the policy. Over the past five to ten years Teton County has seen a proliferation of berm and pond construction. Many such applications become contentious because of current regulations and 94 Comp Plan language that promote protection of natural habitat and landscape, but do not contemplate aesthetic dirt work. Staff’s proposed Policy 1.3.c was intended to provide the guidance that such landscaping be consistent with the natural habitat and landscape without being overly restrictive or prescriptive.
 - Leave recommended 1.3.c as it is
 - Include statement limiting pond, berm, and other dirt work in order to preserve the natural character of the landscape
 - Other

- Both the April draft and Planning Commission recommended version of Theme 1 only contain open space conservation policies under wildlife and agricultural principles. Votes in Theme 2 would indicate to Staff that while large acreages of conserved open space are better than small, there is no value judgment between wildlife habitat, natural resource, scenic resource, or agricultural open space.

- Include a open space conservation policy in Principle 1.2 – Preserve and enhance water and air quality
 - Include a open space conservation policy in Principle 1.3 – Maintain the scenic resources in the area
 - Leave recommended Theme 1 as is
 - Other
- With the Principle – “Limit development in naturally hazardous areas” now in Theme 2 it may no longer be appropriate to include floodplains in Strategy 1.2 (Rec. 117)

ATTACHMENTS

- Lisa daCosta’s Theme 1 rewrite comments 11/11/09
- Theme 1 Recommendations made to date
- Draft Agenda for December 3, 2009 meeting
- Theme 1 Public Comment received since 10/1/09

LEGAL REVIEW

Staff notes that Town and/or County legal representation will only be provided on an as needed basis, and legal counsel will not be attending every meeting. If commissioners have questions for the Town and/or County attorneys or would like to request that they be present at a meeting, please let staff know in advance.

SUGGESTED MOTIONS

Town Planning Commission

I move to continue Item P09-030 to December 3, 2009, at 5:30 pm at the Teton County Board of County Commissioner Chambers.

Teton County Planning Commission

I move to continue Item AMD 09-0017 to December 3, 2009, at 5:30 pm at the Teton County Board of County Commissioner Chambers.

Alex Norton

Subject: my comments regarding the rewrite of Theme 1

From: Lisa daCosta

Sent: Wednesday, November 11, 2009 9:38 PM

Hi guys,

My comments may seem repetitive, but they key on a valid point of law that seems to be strangely neglected in Theme one and that is Property Rights.

In the second paragraph under “Why is this theme addressed?” There is a sentence that goes, “Privately owned lands in the county continue to provide critical winter habitat for many species. Therefore, effective stewardship of these species requires protection of crucial resources and minimizing development impacts to surrounding public lands.” I believe that second sentence MUST include this phrase at the end “while balancing the need to protect private property rights.”

In the fourth paragraph, you have a sentence that reads “Consumption of non-renewable energy is increasingly costly and contributes to climate change in ways that may threaten the health of native species, attract non-native species, and diminish air and water quality.” I take issue that consumption of non-renewable energy contributes to climate change. I don’t think we can prove it locally, particularly when we live in a place surrounded by 28 million acres of forest that absorbs our CO2 consumption. Moreover, irrespective of what we do, if China and India and Brazil and Russia and the rest of the developing world continues to produce massive amounts of CO2, it would presumably affect us as well. If we want to discuss drought (which is not global warming caused) or El Nino (which is not global warming caused) that have led to milder winters that haven’t killed the bark beetles, then let’s please do go all out in a massive analysis in the fourth paragraph of the document OR we should perhaps look to tilt that sentence to air and water quality only, rather than any vague reference to climate change.

Policy 1.1.a the first redline sentence, “Wildlife and wildlife habitat will be protected on all property in Teton County” needs to close with the following, “without compromising private property rights.”

Policy 1.1.d last sentence also needs to close with the following language, “without compromising private property rights.”

Policy 1.1.e fourth line, in red, “the town and county will require mitigation of unavoidable direct and indirect impacts to the ecosystem attributable to development.” What does that mean? Is that a tax? An impact tax? Don’t say it unless you have the means to describe it or defend it. As soon as you add the “will require mitigation” language, you need to be more specific about what that entails.

Policy 1.2.a In the last sentence you need to insert the word areas after the word riparian in the last line.

Policy 1.4.b Remove regulatory barriers to continued agriculture is in direct conflict with the strategy listed under 1.2 to “Remove all exemptions to the wildlife friendly fencing standards and develop penalties...” You cannot have it both ways. If you want to preserve ag uses, then there will be wildlife unfriendly fencing and if you are going to tax and/or fine the remaining ag players, you are not preserving their culture. We must choose in this chapter.

Policy 1.5.a still does not have any recognition that our visitor economy relies on access to the public lands, whether for winter or summer sports, in the woods, mountains or on the rivers. Discussion is still solely focused on getting people off of the public lands, rather than focusing on responsible use, which is the Principle title.

I OPPOSE ANY REFERENCE TO CREATION OF DOG PARKS IN THE COMPREHENSIVE PLAN. IT IS A PLANNING APPLICATION REQUEST FOR SPECIAL ZONING IN A SPECIFIED LOCATION, NOT A POLICY.

Indicators

#2 Ratio of conserved land to developed land in the NRO needs to increase. How does that happen after so much NRO has already been developed, except to take away other private property owners' rights to build. This indicator cannot be achieved at the expense of private property rights.

#4 Sediment Loading in All Waterways, I think you have to exclude man-made ditches for irrigation, swales, gullies and washes. See attached link as these waterways are not considered party to the Clean Water Act by the EPA <http://www.ohioenvironmentallawblog.com/2008/12/articles/wetlands-and-streams/army-corpsepa-issue-new-postrapanos-guidance-on-federal-jurisdiction-over-streams-and-wetlands/>

#5 Ratio of successful habitat mitigation to habitat disturbance must increase. WHAT DOES THIS INDICATOR MEAN? WHO IS GOING TO MITIGATE AND WHO IS GOING TO DISTURB AND HOW ARE THOSE RIGHTS AND RESPONSIBILITIES APPORTIONED? THIS INDICATOR, AS WRITTEN, IS UNCLEAR, PARTICULARLY IN LIGHT OF PRIVATE PROPERTY RIGHTS. If I am going to build a house on my platted lot, which I have a right to do, how can you compel me to mitigate such that there is a net increase in habitat? I do not understand how this would be executed.

Lisa daCosta

**Jackson/Teton County Comprehensive Plan Update
Joint Planning Commission Recommendations Through 11/13/2009**

Topic: Theme 1: Stewardship of Wildlife and Natural Resources

Approved Jointly

Rec. #	Recommendation	County	Town	Date
47	Relocate Principle 1.4 and associated strategies and indicators	4 - 0	7 - 0	8/20/2009
48	Amend the title of Theme 1 to: "Practice stewardship of wildlife, natural resources, and scenic vistas"	4 - 0	6 - 1	8/20/2009
49	Replace "viable populations" with "healthy populations" in Statement of Ideal and throughout theme, and add an indicator of 'health' and associated strategies	4 - 0	7 - 0	8/20/2009
52	Staff will Insert the County's 2nd and 3rd recommendations regarding Theme 1 into Principle 1.1 where appropriate	4 - 0	7 - 0	8/20/2009
54	Throughout Theme 1 do not limit wildlife protection policies to implementation only in the Natural Resources Overlay	4 - 0	7 - 0	8/20/2009
55	Amend Principle 1.1 Sentence 3 to read: Without supporting all native species within the ecosystem the web of support for all native species begins to weaken and the intact ecosystem begins to break down. (or similar, tighter language)	4 - 0	5 - 0	8/20/2009
56	Make no further changes to Policy 1.1.a and Principle 1.1 beyond recommendations 49, 54, and 55	4 - 0	4 - 1	8/20/2009
58	Policy 1.1.b: Replace "behavioral best practices" with "policy decisions"	4 - 0	5 - 0	8/20/2009
71	Leave Policy 1.1.c as is	2 - 1	7 - 0	8/27/2009
72	Leave Policy 1.1.d as is	4 - 1	5 - 2	8/27/2009
73	Policy 1.1.e: Staff to rewrite to clarify intent of mitigating primarily development impacts and relationship with 1.1.d	4 - 1	7 - 0	8/27/2009
76	Policy 1.1.g: Do not except any areas from policy	5 - 0	3 - 2	8/27/2009
78	Principle 1.2: Change header to "Preserve and enhance water and air quality"	5 - 0	5 - 0	8/27/2009
83	Staff will insert County recommendation 8 into Theme 1 where appropriate	5 - 0	5 - 0	8/27/2009
79	Policy 1.2.a last sentence changed to: "Consequently, development will be designed to protect water bodies..."	5 - 0	4 - 1	8/27/2009
80	Policy 1.2.b: Strike the word "urban"	5 - 0	4 - 1	8/27/2009
81	Policy 1.2.c: Staff to redraft language to clarify intent of surface water protection beyond requirements of other jurisdictions	5 - 0	4 - 1	8/27/2009

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82	Policy 1.2.d: add "vehicle exhaust" to list of exacerbating effects	5 - 0	5 - 0	8/27/2009
84	1.5.a and 1.5.b: expand skyline/foreground protection beyond public roads/parks to all roads	4 - 0	6 - 0	9/3/2009
85	1.5.c: add "all land disturbing activities will be required to fit natural contours by conforming to construction standards for land moving"	4 - 0	6 - 0	9/3/2009
86	1.5.d: add language addressing pedestrian and/or public safety	3 - 1	6 - 0	9/3/2009
90	Staff will research the legality of a policy regarding noise pollution and insert the appropriate policy in the appropriate location in the Plan	3 - 0	6 - 0	9/3/2009
91	1.5: add a policy of continuing support of a Scenic Resource Overlay for the County	4 - 0	6 - 0	9/3/2009
92	1.5: staff will research the addition of Scenic Resource Overlay policies for Town	4 - 0	6 - 0	9/3/2009
93	1.6.a: delete the list of places in last sentence	4 - 0	6 - 0	9/3/2009
96	1.6.b: prioritize conservation of agricultural use throughout Teton County	4 - 0	5 - 0	9/3/2009
97	1.6.c: language should provide incentives for permanent open space	4 - 0	5 - 0	9/3/2009
98	1.6.c: staff will rewrite to focus on goal of policy which is the last sentence	3 - 1	5 - 0	9/3/2009
101	Stronger language in 1.1.g	4 - 0	3 - 2	9/10/2009
102	Strengthen 1.1.g language regarding transportation	4 - 0	4 - 1	9/10/2009
104	Recommend to electeds that Environmental Commission is established now	4 - 0	3 - 2	9/10/2009
106	1.6.a: expand to apply to all parcel sizes	4 - 0	5 - 0	9/10/2009
108	Rework 1.7 to clarify staff's intent.	4 - 0	5 - 0	9/10/2009
109	Look at indicators suggested by public and include in list for elected official review	4 - 0	5 - 0	9/10/2009
114	Take "creation" out of 1.7.b	4 - 0	4 - 0	9/10/2009
115	Incorporate statement, "Recognize that any and all growth in the valley impacts both wildlife and natural resources." into Theme 1 where appropriate	5 - 0	3 - 2	10/8/2009
116	Strategy 1.1: Define the Environmental Commission's role to make land use and transportation recommendations	5 - 0	5 - 0	10/8/2009
117	Strategy 1.2 third bullet: add "floodplains" to focus	5 - 0	5 - 0	10/8/2009

**Jackson/Teton County Comprehensive Plan Update
Joint Planning Commission Recommendations Through 11/13/2009**

119	Indicator 4 should look at sediment loading in all waterways	5 - 0	4 - 1	10/8/2009
120	Strategy 1.2, first bullet: strike "Wyoming Game and Fish" leave it as "most recent data" and include Wyoming Game and Fish as the primary partnering agency	5 - 0	5 - 0	10/8/2009
135	Add indicator: Game and Fish monitored populations, with a goal of the WGF targets	5 - 0	5 - 0	10/8/2009
137	Add indicator: Indicator species populations and population trends	5 - 0	5 - 0	10/8/2009
138	Add indicator: Air quality	5 - 0	5 - 0	10/8/2009
140	Add indicator: ambient night light	4 - 1	3 - 2	10/8/2009
141	Add indicator: ambient sound	4 - 1	4 - 1	10/8/2009
143	Move to Theme 8, Energy Conservation: Strategy 1.4, bullets 3 and 4; and Indicator 6	4 - 0	5 - 0	10/8/2009

Approved Teton County

Rec. #	Recommendation	County	Town	Date
70	"Why is this theme addressed?" replace Paragraph 1 with: Because Teton County's abundant wildlife, natural and scenic resources are an international treasure, and the protection of these resources is our community's highest priority. We recognize that our policies regarding development, transportation, recreation, and energy consumption all have impacts on these resources, so it is our responsibility to create policies and enact regulations which protect them. Permanent Conservation Permanent conservation of private lands has resulted in about 20,000 acres of conserved open space. Another 15,000 acres are still in agricultural use. Agricultural use of large contiguous private land is most consistent with the goals of this Comprehensive Plan. Efforts aimed at the permanent conservation of such lands have the greatest potential to positively impact Teton County's wildlife, scenic and natural resources, and should be our highest land use priority.	5 - 0	1 - 6	8/27/2009
74	Policy 1.1.f: Change "support" to "require"	4 - 1	1 - 6	8/27/2009
77	Policy 1.1.g: Change "use best management and design practices" to "implement policy directives"	4 - 1	2 - 2	8/27/2009
89	Principle 1.5 "... and will be regulated" instead of "... and will be prevented as much as possible"	3 - 1	2 - 4	9/3/2009
95	1.6: staff will draft language that recognizes permanent conservation of large contiguous properties as one of our highest land use priorities	3 - 1	1 - 4	9/3/2009
103	Include all appropriate Game and Fish language into document	4 - 0	2 - 3	9/10/2009
105	Add a policy/strategy creating a public funding source for the acquisition of conservation easements and/or open space	3 - 1	2 - 3	9/10/2009

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136	Add indicator: acres rehabilitated	4 - 1	1 - 4	10/8/2009
142	Add indicator: meters of wildlife unfriendly fencing removed	4 - 1	1 - 4	10/8/2009

Approved Town of Jackson

Rec. #	Recommendation	County	Town	Date
88	Principle 1.5: ... as much as "reasonably" possible	1 - 3	4 - 2	9/3/2009

Failed Jointly

Rec. #	Recommendation	County	Town	Date
94	1.6.a add: "The conservation and agricultural use of large contiguous private land is also the most consistent land use with the goals of the Comprehensive Plan. Efforts aimed at the permanent conservation of such lands have the greatest potential to positively impact Teton County's wildlife, scenic and natural resources, and should be our highest land use priority."	1 - 3	1 - 5	9/3/2009
110	Make Conservation of Open Space its own principle	2 - 2	2 - 3	9/10/2009
113	Add a strategy: creation of an additional Wildlife Stewardship Plan under the direction of the Environmental Commission to detail implementation of Principle 1.1	2 - 2	1 - 4	9/10/2009

AGENDA
JACKSON PLANNING AND ZONING COMMISSION
TETON COUNTY PLANNING COMMISSION
DECEMBER 3, 2009 – SPECIAL JOINT MEETING
5:30 P.M.

The meeting will be held in the Teton County Board of County Commissioners Chambers.
Agenda for the meeting is as follows:

PLEASE TURN OFF ALL CELL PHONES AND PAGERS DURING THE MEETING

CALL TO ORDER – Town of Jackson Planning Commission

ROLL CALL

CALL TO ORDER – Teton County Planning Commission

ROLL CALL

PUBLIC COMMENT (maximum 45 minutes)

OLD BUSINESS

NEW BUSINESS

1. Theme 3 – Uphold Jackson as “Heart of the Region”

MATTERS FROM STAFF (8:15)

1. Data Requests Update
2. Set Agenda, Date and Time for Next Joint Meeting(s)
3. Identify experts that should be contacted for future meetings
4. Other

MATTERS FROM COMMISSION

ADJOURN – TOWN OF JACKSON PLANNING COMMISSION

ADJOURN – TETON COUNTY PLANNING COMMISSION